No. 10-541

Supreme Court, U.S.
DEC 29 2010

In The Supreme Court of the United States

CONNIE RHODES,
Captain, M.D., F.S.,
and
DR. ORLY TAITZ, ESQ.
Attorney for the Petitioner, Interested Party,
Petitioners,

v.

THOMAS D. MACDONALD, Colonel,
Garrison Commander, Fort Benning,
GEORGE STEUBER, Deputy
Commander, Fort Benning,
ROBERT M. GATES,
Secretary of Defense,
BARACK HUSSEIN OBAMA,

Respondents.

On Petition for Writ of Certiorari
to the Eleventh Circuit Court of Appeals

SUPPLEMENTAL BRIEF TO PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. In light of conflicting decisions of courts in CA and GA, what is the proper time to bring forward the Constitutional challenge to presidential eligibility: before or after the election and congressional confirmation?

2. If arguendo GA timing and standard of eligibility verification is deemed to be a correct one, does adherence to CA standard represent a sanctionable offense by the counsel on the case?

3. In light of conflicting decisions in Fort Meade, MD, LTC Dr. Terrence Lakin court martial US v. LTC Terrence L. Lakin and decision by Judge Land in Rhodes v MacDonald, Steuber, Gates and Obama (here Taitz v MacDonald), who is allowed to bring constitutional challenge to eligibility of the Commander in Chief?

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ARGUMENT

After petition for writ of Certiorari was filed in the case at hand, a conflicting decision came from the Third District Court of Appeals of CA, in Keyes et al v Bowen et al C 062321 Third District Court of Appeals of CA which was based on a prior decision in Robinson v Bowen 567 F. Supp. 2d at p1147 from U.S. District Court for the Northern District of CA. Both *Robinson* and *Keyes* dealt with the challenge of presidential eligibility. Robinson dealt with the challenge of the eligibility of Senator McCain in light of his birth in the city of Colon, Panama and *Keyes* challenged eligibility of senator Obama in light of lack of his long form birth certificate. Both cases were filed against the Secretary of State of CA Debra Bowen. Both the U.S. District Court for the Northern District of CA, Hon Judge Alsup and the Third District Court of Appeals in Ca Honorable Judges Scotland, Sims and Robie concurred that the proper time to challenge the eligibility of the President is after the election and after the congressional confirmation.

"Therefore, this order holds that the challenge presented by plaintiff is committed under the Constitution to the electors and the legislative branch, at least in the first instance. **Judicial review--if any--should occur only after the electoral and Congressional processes have run their course**. [Citation.]" (*Robinson v. Bowen, supra*, 567 F.Supp.2d at p. 1147.) (emphasis added)

In the case of Rhodes v MacDonald, which is the subject of the appeal, decision by Judge Clay D. Land, which was affirmed by the 11th Circuit court

of Appeals, states that bringing eligibility case **after** the electoral and Congressional process have run their course is frivolous, as some 300 million dollars were already spent on the campaign and Judge Land has sanctioned attorney Orly Taitz $20,000 as he believed that challenging eligibility after the election and confirmation by Congress is frivolous. As such, there is a real controversy between different District Courts: District Court in the Middle District of Georgia and the District Court in the Northern District of California.

As the Eleventh Circuit Court of Appeals denied the appeal, it seems to concur with the opinion of Land. On the other hand, as the District Court of Appeals in CA concurs with the decision of Judge Alsup from the U.S. District Court, we have a controversy that involves four courts: two U.S. District Courts and two Courts of Appeals. In situation like that it is imperative for the Supreme Court of the United States to issue an opinion resolving this Constitutional conundrum.

It appears, that since there is such a difference of opinion, individual parties and attorneys are free to question eligibility at any time: before or after the election.

If arguendo Supreme Court of the United States decides that both Judge Alsup from the U.S. District Court for the Northern District of CA and the CA Court of Appeals are wrong and Judge Land is right and the proper timing for eligibility challenge is before the election, does it mean, that Judge Land and the 11th Circuit Court were right in assessing sanctions against an attorney who brought the

eligibility challenge after the election? As a different standard and opinion coming from the US. District Court in CA existed, Taitz was correct in bringing her legal action after the election, her actions were proper and timely and therefore not sanctionable.

3. IN LIGHT OF CONFLICTING DECISIONS IN FORT MEADE, MD, LTC DR. TERRENCE LAKIN COURT MARTIAL AND DECISION BY JUDGE LAND IN RHODES V MACDONALD, GATES, OBAMA (HERE TAITZ V MACDONALD), WHO IS ALLOWED TO BRING CONSTITUTIONAL CHALLENGE TO ELIGIBILITY OF THE COMMANDER IN CHIEF?

There is a clear controversy between decisions by presiding judge Clay D. Land in Rhodes v MacDonald, Steuber, Gates and Obama and by the decision of the presiding judge Denise Lind in Article 32 Court Martial in United States v Lakin. In Rhodes presiding judge Land stated that legitimacy of Commander- in-Chief and lawfulness of his orders is an internal matter for the military to decide, whereby Land sanctioned the Petitioner in this case attorney Orly Taitz $20,000 for supposedly bringing a frivolous law suit on behalf of her client Flight Surgeon Captain Connie Rhodes, challenging her deployment to Iraq, claiming that her deployment orders were illegal, as legitimacy of Barack Obama, as Natural Born citizen was never proven, therefore he is not a legitimate Commander-in-Chief and deployment orders coming from him down the chain of command are illegal.

In *Lakin* presiding judge Denise Lind ruled in the preliminary hearing that the orders were presumed to be lawful, that it is not up to the military to decide, she advised *Lakin* to find for himself a different line of defense, she stated that she did not want an "embarrassment" for the President. Consequently the defense could not mount any meaningful defense and a National hero, Bronze Star recipient, highly decorated Army doctor with 17 years of service was discharged, demoted, lost his pension and benefits and imprisoned for 6 months for challenging the same orders on the same basis of Obama's illegitimacy.

Currently we have conflicting and diametrically opposite decisions. Taitz was sanctioned because Land believed that legitimacy of order was internal for the military and Lakin was dishonorably discharged and imprisoned because Judge Lind believed that it is not up to the military to decide.

There has to be a judicial determination by the Supreme Court in the land, the Supreme Court of the United States, whether members of U.S. military can question legitimacy of orders coming down the chain of command from illegitimate Commander in Chief. SCOTUS needs to determine, whether such challenge and inquiry into legitimacy of orders can be mounted in federal court, state court or military court.

If arguendo Supreme Court decides that the matter needs to be heard by the Federal Court, than the sanctions against Taitz were in error and need to be reversed.

If arguendo the Supreme Court decides that the proper venue is the military court, the sanctions were still not warranted, as the matter was not settled and it was reasonable for Taitz to bring her case to the Federal Court. In US v Deicher and U.S. v New it was found that an order is presumed to be lawful (such as deployment order) **if it is issued by a competent authority - a person authorized by applicable law to give such an order (emphasis added)**

Applicable law for one to be the President and Commander in Chief is Article 1, Section 2 of the United States Constitution, which requires one to be Natural born. Evidence presented in both *Rhodes and Lakin* shows Obama not to be Natural born and hence not authorized by applicable law to give deployment orders.

It was reasonable for Taitz to bring the issue of eligiblity on behalf of Rhodes and it is reasonable for Lakin to bring it as well.

We can now see a situation, where different courts come up with contradicting decisions.

On the issue of timing for eligibility legal action, the decision by Land in *Rhodes* directly contradicts the decision by the Third District Court of Appeals in CA. Land states that the case was supposed to be reviewed and adjudicated **before the election,** Third District Court of Appeals in *Keyes* states that the issue of eligibility needs to be brought **after the election**, after the electoral college and the Congress had an opportunity to act.

In regards to the military yet again the decision by Land is opposite to the decision by Judge Lind in Lakin.

What it means, is that issue is not settled, it is ripe for review and nobody can be prosecuted and persecuted for bringing the issue.

Additionally, we have a situation, where the courts are afraid to take up the issue and they are simply looking for excuse not to deal with issue of eligibility of the President. Such search of excuses creates contradicting opinions. Barack Obama and his administration hoped the issue will go away, they tried hard to hush the issue, however it didn't happen. The issue intensified. Now we have political dissidents, who became political prisoners. This situation is intolerable in a Constitutional Republic based on Democratic principles and on respect for individual freedoms. As such Petitioner prays for this court to grant the petition for Writ of Certiorari.

CONCLUSION

Since there is a real controversy between different district courts and state courts, this issue needs to be reviewed by the United States Supreme Court.

Even if the Supreme Court finds that U.S. District Court for the Middle District of Georgia and Eleventh Circuit Court of Appeals interpretation of the proper timing for eligibility challenge is correct and the interpretation by the U.S. District court for the Northern District of California and the California Court of Appeals is incorrect, due to existing controversy, it was reasonable for the

Counsel to follow the CA interpretation and sanctions against the counsel were assessed in error and showed abuse of judicial discretion. Similarly, due to conflicting decisions in *Rhodes* and *Lakin*, it is necessary for the Supreme Court to settle the controversy.

Respectfully submitted,

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